COUNTY GOVERNMENT OF MOMBASA

DEPARTMENT OF LAND, PLANNING AND HOUSING

MOMBASA COUNTY LAND POLICY

"Ardhi Yetu Haki Yetu"

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FOREWORD-to follow

ACKNOWLEDGMENT

This policy document is the culmination of a collective effort that brought together different stakeholders who expressed, in words and deeds, a common determination to rid Mombasa of a pervasive, long-running and complicated land conundrum. Special thanks goes to top officials of the Mombasa County Government, and more so officials from the Land, Planning and Housing department, who coordinated inputs from all involved and synthesized them into a format that was extremely useful.

The formulation of the initial draft was done through a consultative and participatory process that involved a big number of people who constituted themselves into different groups. In this regard, the County Government of Mombasa wishes to thank tenants, landlords, business people, jua kali sector and „squatters" from the 6 sub-counties, Members of the County Assembly (MCA) Committee of Lands, Planning and Housing, County Government of Mombasa department of Lands, Planning and Housing representatives and representatives from civil society organization who not only provided valuable information but also deployed their experiences on land matters that proved extremely important. Thanks too, goes to the County Executive member who provided support and facilitated the presentation of the draft to the County Assembly.

Last but not least, we are indebted to members of the coordinating unit and technical/consultancy advisory team that professionally polished the initial draft into this document. This group was led by Elijah Agevi while other members of the team included Kenneth Odary, John Mbaria and Humphrey Otieno. Finally, we wish to acknowledge with deep gratitude, the technical and financial support from the Civil Society Urban Development Programme (CSUDP) that enabled achievement of this important policy.

EXECUTIVE SUMMARY

Land in Mombasa County has been enveloped in a kaleidoscope of issues. The said issues are an accumulation spanning several decades and epochs. As a departure from the dark echoes of the past, Mombasa county government has formulated this land policy. This policy is anchored upon Kenya‟s constitutional, policy and legislative framework and is geared towards attaining an effective and efficient system of exploiting land as a resource for the benefit of Mombasa County Residents.

In order to provide a proper policy alignment, an analysis of the underlying issues was made while the prevailing situation was taken into account. The legal and policy background and provisions as well as the roles and responsibilities assigned to the various institutions either by the constitution or by different statutes, were considered and analysed. Consequently, a series of policy options have been provided to guide the County Government in addressing the land situation in Mombasa. These policy options are grouped into nine key themes that includes Land management and administration, Land use and planning, Infrastructure and services, Culture and heritage, Land backlogs, Land compensation and Land revenue. Besides this, the policy provides a hierarchy of key actors who are to perform different roles during the implementation of the Policy. This is buttressed by a robust policy implementation framework, monitoring and evaluation strategies and an implementation matrix.

The Mombasa land policy is thus a living document that seeks to not only forge a way forward from the past but also re-engineer Mombasa as an engine of growth. It further seeks to secure democratic land governance by centralizing citizen engagement and partnerships. The policy implementation shall secure the legacy of Mombasa as leading City in Africa.

PREAMBLE

The people of Mombasa County, individually and collectively, mindful of their history and responsibility towards the future, without prejudice or preference, affirm this county land policy, as an instrument addressing land issues and connected purposes.

1.0 INTRODUCTION

1.1 Background

Unlike many other counties in Kenya, Mombasa has unique, complicated and glaring land problems that spring from the colonial period and which affect a sizable segment of the residents. This has to do with injustices related to historical land ownership and tenure systems, poor land administration and management, unsustainable land use, lack of effective development control and inadequate infrastructure. The situation has given rise to squatter and informal settlements, tensions and occasional conflicts and has informed political development in the island town.

Past attempts to address the challenges have not been effective, were done in a piecemeal manner and did not tackle the root causes of the problem. At the same time, the uniqueness of County‟s land situation means that it cannot be adequately addressed by corrective national initiatives and processes. In essence, this necessitates the formulation of a county-specific land policy through a participatory and consultative process as is required by the Constitution of Kenya, 2010.

This policy is made with the aims of achieving economic development, social justice and equity, and political stability. It addresses land planning, alienation, use, transfer, registration and taxation of land. It seeks to promote the provision of security of tenure, improve access to credit and create room for land reforms, land titling and the resolution of issues relating to traditional or customary tenures.

In addition, the policy gives special attention to the provision of land for the poor, ethnic minorities and women, land use and physical planning, real property taxation, measures to prevent land speculation and land disputes. Further, the policy is hinged on national laws and provides the necessary interpretation required to address key elements relating to land administration and management peculiar to Mombasa

1.2 Guiding Philosophy

Embedded at the foundation of this Policy is the recognition of the need to align with the broader national interests and balance the allocation of resources and decision making across gender. It accords all residents unhindered participation in decisions and processes pertaining to land use and management. It acknowledges that everyone has a right to fair taxation, and that all stakeholders have right of access and use of land in accordance with their needs and ability. The County government promotes residents‟ access to information on land management and administration and guarantees a transparent and democratic governance of land besides promoting inclusivity, consensus, responsive, timely and professional tackling of land matters and related challenges.

1.3 Guiding Principles, Vision, Mission and Objectives

The Mombasa City County land policy is a living document enacted for the purpose of satisfying the provisions of the CoK, 2010 and consistent with Vision 2030, NLP, 2009 along with supporting legislative frameworks. In the execution of the functions related to land and connected purposes, the County Government shall be guided by the following vision, mission and set of objectives;

1.3.1 Vision

An effective and efficient system of exploiting land as a resource for the benefit of Mombasa County Residents.

1.3.2 Mission

To promote effective land administration, efficiency in the management and use of land for the purpose of raising its productivity, eradicating conflicts and increasing revenues for the County Government

1.3.3 Objectives

The County Land Policy‟s objectives are:

(a) To defend, secure and implement the stakeholders‟ rights over land and provide a guideline to land use, administration and Management
(b) To create a platform for public participation on matters pertaining to land alienation, adjudication, planning and surveys.
(c) To strengthen land Administration processes by building capacity of the lands department of the County Government of Mombasa.
(d) Ensure adequate land for housing the residents.
(e) Guarantee enough land for industrial and commercial activities
(f) Promote the wellbeing of the environment
(g) Enable the County Government provide essential services that require land (e.g. abattoirs, fisheries, health services, education, burial sites-cemeteries, funeral

parlours and crematoria‟s- solid waste management, sports, county transport (roads, street lighting), parking, markets.

(h) Raise revenue for the development of the County.

1.4 Policy Formulation Process

1.4.1 Delivery Arrangement

The delivery of the Mombasa County Land Policy was guided through a four-tier management and Administration structure that included the County Assembly and County Executive Members, the Stakeholders Committee, Mombasa Local Urban Forums and the Public Participation thematic groups. The management and administration structure was supported by a coordinating unit and technical/ consultancy advisory teams with resource support from the Civil Society Urban Development Programme (CSUDP). The formulation of the policy was done through a consultative and participatory process that involved the following:

1.4.2 Sources of Primary Data

A series of in-depth meetings and interviews with Mombasa Residence including tenants, landlords, business people, *jua kali* sector and „squatters‟ from the 6 sub-counties, Members of the County Assemble (MCA) Committee of Lands, Planning and Housing, County Government of Mombasa department of Lands, Planning and Housing representatives and representatives from civil society organization with experience in land matters and citizen participation.

1.4.3 Secondary data Collection

A review and analysis of the Sessional paper no. 3 of 2009, National Land Policy on peculiar problems of land within Mombasa County, Constitution of Kenya 2010, Land and devolution related laws.

The draft policy was approved by the County Executive Member (CEM) who asked the Committee to proceed with the preparation of the County Sessional paper for presentation to County Assembly. The Sessional Paper is now ready which marks a critical milestone in the formulation of the Mombasa County Land Policy

1.5 Historical, Socio-Economic and Geographic Context

Mombasa City County is one of the 47 Counties in Kenya and the second largest city in the country, lying on the Indian Ocean. The county has a major port, an international airport and is the centre of the coastal tourism industry. Mombasa has a land area of 229.9km^2 and 65km^2 of water mass and lies between latitudes 3°56‟ and 4°10‟ south of the equator and longitudes 39°34‟ and 39°46‟ east.

The county comprises an island separated from the mainland by Tudor Creek and Kilindini Harbour with population of 939,370 people that is projected to reach 1,500,000. Mombasa County has six constituencies, namely, Mvita covering the island, Changamwe and Jomvu in the West, Kisauni and Nyali in the North and Likoni in the South.

Mombasa City County has a rich history dating back to several centuries as part of the Indian Ocean trade network. Arab immigrants, and later Indian immigrants, greatly altered the pattern of coastal settlements and eventually made the issue of land ownership considerably more complex. The internal population movements added another layer of complexity as the coast witnessed population movements.

At the time when the plantation economy was declining and plantation lands were being abandoned, other groups of people arrived and occupied these lands, which further complicated coastal land problems. The main groups were the Mijikenda, a confederation of nine Bantu-speaking communities comprising the Giriama, Digo, Kauma, Chonyi, Jibana, Kambe, Ribe, Rabai and Duruma.

Since then, it has been associated with Omani, Portuguese and British rule prior to becoming part of Kenya. Though little mention is made to the indigenous Mijikenda and Swahili peoples, they are part of the city‟s rich legacy. The different epochs have left an enduring cultural impact that continues to shape contemporary life in Mombasa City County. As a result, the commonly spoken language is Swahili and the city is populated mostly by the Muslim Swahili people. .

1.6 Constitution, Policy & Legal Framework

The policy is anchored on the following constitutional, legal and over-arching policy milieu:

1.6.1 Constitution of Kenya 2010

The Constitution embraces, recognises and provides for a devolved governance structure and the participation of Kenyans in the making of laws, policies and decisions pertaining to their welfare. At the same time, the Fourth Schedule of the Constitution assigns to county governments specific roles including the planning of their areas of jurisdiction. Besides been listed in the Fourth Schedules, the relevant functions are provided for in Article 185, Article 186(1) and Article 21 (Implementation of Bill of Rights), Article 62(2) & (3) (Vesting of Land on County Governments). Other functions have been assigned to independent institutions with Article 47 vesting the management of public land to the National Land Commission (NLC) on behalf of both the national and county government.

1.6.2 Policy

a) Vision 2030

Vision 2030 is the main national government‟s development blue print whose primary goal is to transform the country into a newly industrializing middle income country by 2030. It provides for a high quality of life for all citizens by the year 2030 and aspires to foster progress and GDP growth rate of 10% per year though investments and development of three pillars; economic, social and political pillars. It identifies six key growth drivers for the achievement of the economic vision as tourism; increasing value in agriculture; a better and more inclusive wholesale and retail trade sector; manufacturing for the regional market; business process outsourcing and financial services. Under the social equity, the Vision aims at creating a socially just and equitable society without extreme poverty.

Vision 2030 recognises land as a critical resource for socio-economic and political development across the country. It calls for the completion of the national land policy to facilitate the process of land administration, computerization of land registries, and establishment of national spatial data in order to track land use patterns. It also calls for the enactment of enhanced legal framework to enable effective resolution of perpetual disputes over land.

b) National Land Policy

The Sessional Paper No. 3 of 2009 on National Land Policy is the prevailing document that spells out how to tackle the most challenging land issues in Kenya and forms the foundational framework upon which land laws are built. It was formulated with the objective of securing rights over land and providing for sustainable growth, investment and the reduction of poverty.

The Policy defines the key measures necessary for addressing land administration, access to land, land use planning, restitution of historical injustices, environmental degradation, conflicts, unplanned proliferation of informal urban settlements, outdated legal framework, institutional framework and information management. The Policy also focuses on compulsory acquisition and development control as well as how to secure land tenure for all Kenyans including marginalised groups, women, pastoralist communities and residents of informal settlements. A most important aspect of the Policy is that it recognizes and protects customary rights to land, private land rights and provides for derivative rights from all categories of land rights holding.

1.6.3 Legislation

a) The County Governments Act, 2012

An act of Parliament giving effect to Chapter 11 of the Constitution, providing the County governments' with powers, functions and responsibilities to deliver services. The Act gives County Executives the role of submitting county development plans and policies to the county assembly for approval. Further, the Act obliges counties to plan their areas of jurisdiction for the purpose of facilitating the development of a well-balanced system of settlements and ensuring the productive use of scarce land, water and other resources for the attainment of economic, social, ecological and other functions across a county.

b) The Administration of Public Land Act

Section 17 of the Act states that a management body shall, on its own motion or at the request of the National Land Commission, submit to the Commission for approval a plan for the development, management and use of the reserved public land vested in the management body. Before submitting a plan to the Commission, a management body is required to do the following:

(a) Consider any conservation, environmental or heritage issues relevant to the development, management or use of the public land;
(b) Incorporate in the plan a statement that it has considered those issues in drawing up the plan;
(c) Submit an environmental impact assessment plan pursuant to existing law on environment; and,
(d) Comply with the values and principles of the Constitution.

c) Land Registration Act of 2012

The legislation revises, consolidates and rationalizes the registration of titles to land and gives county governments a role in the same. It repealed the Indian Transfer of Property Act 1882, the Government Lands Act, (Cap 280), the Registration of Titles Act, (Cap 281), the Land Titles Act, (Chapter 282) and the Registered Land Act, (Cap. 300). The Act applies in the registration of public, private and community land and provides for the powers of land registrars as well as the maintenance of land registers for different categories of land in accordance with the Constitution. It compels the Chief Land Registrar to make information relating to land registration available to members of the public and requires the survey department to prepare and maintain maps (cadastral maps) for every registration unit. Such maps ought to be geo-referenced to ensure that they are compatible with other documents.

d) National Land Commission Act (cap 5D)

The National Land Commission Act provides for the functions and powers of the National Land Commission in accordance with Article 67(3) of the Constitution. Among the roles assigned to the NLC by the Act include the management of public land on behalf of the national and county governments. The Commission is also expected to assess tax on land, monitor land use planning and registration throughout Kenya and encourage the application of traditional dispute resolution mechanisms in land conflicts. The Act gives the NLC powers to alienate public land on behalf of national and county governments and to oversee the registration of such lands. Article 16 (5) requires the NLC to establish offices in the Counties and sub-counties. In the same breath, Article 18 (1) asks the NLC to set up county land management boards (for managing public land) in consultation with national and county governments. Such boards are required to have between three and seven members including a physical planner or a surveyor nominated by relevant arms of county governments.

e) The Environment & Land Court Act (Cap 12a)

The Act gives effect to Article 162(2) (b) of the Constitution by providing for the establishment of a special court to preside over, and determine disputes related to environment and use, occupation and titles to land. The act states how the court can expeditiously resolve disputes related to environment and land in a just, proportionate and accessible manner. Operating as a high court, the Environment and Land Court has jurisdiction throughout the country. It is empowered by the Act to preside and determine disputes related to the following:

1. Environmental protection;
2. Land use planning, titling, tenure, boundaries, rates, rents, valuations, mining, minerals and other natural resources;
3. Compulsory acquisition of land, land administration and management; and,
4. Disputes relating to public, private and community land and contracts, and other instruments granting any enforceable interests in land.

Part III (Article 7) says that Court has powers to make orders or grant award on damages, compensation, restitution etc. and that its judgments are enforceable in accordance with civil procedure rules. While determining disputes, the court is expected to be guided by, among other things, public participation in the development of policies, plans and processes for the

management of environment and land as well as the cultural and social principles traditionally applied by any community for the management of the environment and land as long as this is not inconsistent with any written law.

f) Urban Areas and Cities Act (2011)

This Act has been formulated in pursuit of Article 184 of the Constitution that calls for a National legislation to provide for classification, governance and management of urban areas and cities. The Urban areas and cities Act is a reprieve from the previous legislation the Local Government Act Cap 265 (repealed) which was the main legislation governing urban areas. The Act expresses the need for public participation in the management of the urban areas.

g) Community land bill

Under Article 63(5) of the Constitution (2010), Parliament is required to enact legislation to govern Community Land. This is because, historically, the processes and procedures of land acquisition have either led to the extinguishing of customary tenure and displacement or more recently illegal allocation of community land to non-bonafide people. Besides, responsibility over use of such land is varied leading to unsustainable exploitation hence degradation. The relevant legislation to govern Community land is yet to be enacted and in the meantime a number of laws still apply[1]. However, the bill was yet to be made into law by the time the formulation of this policy was completed.

[1]Land Act (Act No.6 of 2012) , Land Registration Act (Act No.3 of 2012), Land Control Act 1967 revised 2010, National Land Commission Act (Act No. 5 of 2012), Trust Lands Act (Chapter 288/Revised 2009), Land (Group Representatives) Act (Chapter 28/Revised 2012, Land Adjudication Act (Chapter 284/revised 2010), Land Consolidation Act (Chapter 283/revised 2012), Environmental Management and Coordination Act (Act No.8 of 1999/Revised 2012, Section 43).

2.0 SITUATIONAL ANALYSIS

2.1 Overview

The effective management of land, how it is planned, surveyed and registered as well as how the resultant developments are controlled as important aspects of development that generate harmony, peace and progress in any society. Although attempts have been made to incorporate discernible aspects of land administration, management and planning in Mombasa County, many of the processes have however not attained desired ends. This has to do with a host of issues as outlined in the following sections.

2. 2 Land Management and Administration

The new Constitution, as well as the National Land Policy, takes cognizance of failures of the land management system traced to colonial times and successive post-colonial governments. Prior to 1895, there were three separate domains of law relating to land tenure, each of which overlapped, to some extent, with the others. For the Mijikenda of the coast, African customary law regulated land disputes, while the coastal Muslim community relied on the Islamic law or Shari‟a law, but also occasionally reverted to a system known as *mila*[2].

The coming of the Imperial British East Africa Company (IBEAC) added yet another dimension to land management. The uncertainties around land ownership practiced under Shari‟ a law and *mila* at the coast influenced the Company to introduce a registration system to encourage the practice of systematic recording of land transactions. With the proclamation of the East Africa Protectorate in 1895, the colonial government promulgated a new set of land regulations that would facilitate new developments. Subsequently, Land in Kenya was classified in terms inherited from colonial times either as crown land, private land or native reserves.

Upon Kenya‟s independence, land designated as crown land became „government land‟ as defined in the Government Lands Act, Cap280, and native reserves became „trust land‟ under the Trust Land Act, Cap 281[3].The2009 National Land Policy and the Constitution of Kenya, 2010 specify that land in Kenya be designated as public land, private land and community land. However, there has been, an overlapping of laws governing the three categories which has created a highly complex situation more so with regards to categories of land in Mombasa County.

2.3 Land Preparation-Surveying, Planning and Registration for Development

The types of survey methods applied in Mombasa County have not been fully revised into one system. The existing survey is a combination of measurements without direction, measurements

[2]Mila was a hybrid system that drew upon both Shari‟ a law and Swahili customary law
[3] As at 2015 Kenya has repealed xx land laws and enacted 5 statutes to replace repealed laws

with compass direction, clerk 1880 Cassini projection, UTM Arc 60 for cadastral plans and local origin surveys created by field data revision. The earlier Cadastral surveys were not controlled by planning and therefore they did not reserve roads of access for the created parcels. Furthermore, the county experiences a faulty system of plot numbering based on sections and blocks which has led to double numbering with different parcels having the same number.

Additionally, there is no record showing the extent of public land held by the county government or the national government within the county. As such, there is a need to identify all the private land within the county, the owners as well as the owners of houses built there. Finally, the County government needs to establish what constitutes community land within its area of jurisdiction.

2.4 Land Use and Planning

The CoK, 2010 assigns Physical Planning functions to the National Government, County Governments and the National Land Commission (NLC). These functions have further been elaborated in the Urban Areas and Cities Act No. 13 of 2011, National Land Commission Act No. 5 of 2012, the Land Act No. 6 of 2012and the County Government Act No.17 of 2012. More importantly, legal Notice No. 16 of 2013 identified county planning and development as one of the functions that may be transferred to county governments immediately after the first elections under this Constitution 2010. Subsequently, a number of functions previously performed by the Director of Physical Planning under the Physical Planning Act, Cap286 have been transferred to County Governments but without requisite administrative and operational capacity.

The County has not had a comprehensive City planning for a long time. The nature of land ownership has equally made it difficult to undertake physical planning. Besides this, the county has 65km^2 of water mass and an exclusive economic zone extending 200 nautical miles into the Indian Ocean. However, the proximity to the Indian Ocean is yet to be integrated into the physical planning of the County. When this is combined with land tenure issues, absentee land lords, shortage of quality and affordable housing and population pressure, it has led to the emergence of many unplanned settlements that lack infrastructure and other services leading to environmental problems. This is particularly acute in unplanned settlements like Bangladesh, Magongo, Likoni, Longo, Kisauni and Bamburi.

2.5 Development Control

There is no proper cooperation between the technical officers and politicians in city planning within Mombasa County. There is also failure of effective involvement of intergovernmental agencies and residents in town planning. This has resulted to inability by the County Government to control development on land. As a result, there are illegal construction on road reserves and way leaves, encroachments into other people‟s lands, unapproved developments, Low density residential developments, lack of services due to excessive development

(overwhelming) among other challenges that consequently reduce the revenue accruing to the County.

Development control is further complicated by Land lords who give perpetual leases to tenants to build homes. This created the phenomena known as tenants-at-will or house without land. Overtime, the construction of houses by tenants has become difficult to control due to deteriorating capacity thus creating haphazard development characterized by proliferation of unplanned urban settlements in many areas.

2.6 Land for Infrastructure and Services

The strategic significance and location of Mombasa has seen the development of major infrastructure projects. These include the Uganda Railways along the areas of Mazeras and Mariakani, the Port at Kilindini, the airport in Changamwe and recently the Standard Gauge Railway. Alongside the development of vital infrastructure for roads, water and electricity, has seen an upsurge in demand for land. However, the county is faced with increased congestion due to non-adherence to plans. With more strategic investments expected, the reserve land for way leaves and expansion will be critical while land sales based on the speculation may be of major concern.

2.7 Land for Investment and Amenities

The County Government has not exploited the potential to invest in utilities and amenities such as Public toilets, social halls, sports complex facilities, public cemetery, crematorium, mortuary, sewerage system and sewer treatment plants etc. Additionally, industrial development has extended from the island to the west of the mainland. However, this has taken place on scattered freehold plots and is, with a few exceptions, served by roads.

2.8 Land tenure

Insecurity of tenure within the county is characterized by presence of many squatters residing on private, community or public land. This has historically been a problem in the county and attempts at settling people in settlement schemes have not borne fruits with some of the beneficiaries selling the allotted land. Besides this, the people owning houses in the informal settlements are not in the county government records and thus their tenure is uncertain. The county government has been unable to provide for basic services (e.g. clean water, adequate sanitation, education and health), collect revenue from the settlements or plan for housing development while insecurity characterises many of the informal settlements.

Failure of coordination between the County Government and National land Commission in identifying and registering all interests in land has led to lack of recognition of land *wakf* tenure. Similarly, Tenancy-at-Will is not recognized as a form of interest on land while the issue of absentee landlords has not been settled even though it contributes to lack of security of tenure and victimization of squatters.

2.9 Land based Culture and Heritage resources

Mombasa City County is endowed with diverse land-based cultural heritage sites, which contribute directly or indirectly to the socio-economic well-being. Among these resources include cultural heritage and indigenous knowledge sites such as Fort Jesus Museum (a UNESCO World Heritage site), the gigantic Elephant Tusks mould, old town, the old Port, sandy beaches, the Mombasa Marine Park, Haller Park and Butterfly Pavilion.

The optimal use of these land based resources depends in large part on the governance systems, to ensure sustainability. However the management and exploitation of these cultural heritage resources has been occurring without involving the surrounding communities or the community deriving benefits for hosting the sites.

2.10 Land backlogs

Majority of Mombasa residents continue to suffer from historical land injustices. The residents have suffered through squatting, informal settlements, improper land allocation system, absence of efficient rates collection methods and strategies, outdated land plans, lack of supervision in the implementation of the by-laws related to land.

Besides, landlessness has been cited as a cause of poverty in the County. Coupled with other factors such as inadequate resource management, insufficient governance and ignorance, this has contributed to the continued marginalization of the disadvantaged poor many of whom are predominantly squatters living on land owned by absentee landlords who own up to 301 hectares of Mombasa County.

Poor guidelines on eviction procedures have in the past led to unnecessary loss of lives, personal property and livelihoods. Besides this, fake absentee landlords impersonating real owners have been known to extort cash from tenants. The phenomenon has further been concretised by the alienation of land to non-citizens, who have in the past been able to apply for and be allocated land for any permissible use.

As noted elsewhere, there exist gross disparities in land ownership, gender and trans-generational discrimination in succession, transfer of land and the exclusion of women in land decision making processes. Additionally, customary and religious systems that are relied upon are inappropriately applied thus causing discrimination against women and children.

2.11 Corruption

As variously documented, Corruption has had negative effects on the distribution and management of land as a resource. In particular, development control has been severely compromised thereby reducing the quality of land available. Whereas public education

regarding the vice continues to be undertaken, this is still minimal. As a result, land transactions are still encumbered by corruption.

2.12 Land Compensation

The problem of land administration and human settlement is, historically, a sensitive issue in the County. Among the challenges experienced include restitution and compensation for land that continue to have a bearing on land. In particular, the indigenous Mombasa peoples have had to contend with their land being taken without their free, prior and informed consent or in violation of their laws, traditions and customs. This is especially unfortunate coming from a past when systems such as the Kivanda[4] (compensation) existed. Furthermore, current, land acquisition for public purpose has been fraught with suspicion and counter allegations.

2.13 Land Dispute Resolution

County Government of Mombasa has not had a proper mechanism for solving disputes over land. This is especially unfortunate given that in the past even the indigenous Mijikenda people recognised rights in land and honoured boundaries between groups with a council of elders (Kambi) to adjudicate disputes, while the Arab and Swahili communities of the coastal towns adopted *Shari' a* law in land cases. It has especially been noted that Absentee landlords own a significant proportion of land in the County. Some owners enter into temporary lease arrangements with local residents and institutions through agents. However, this arrangement results with tenants lacking long term security for the properties they develop thereby generating conflicts.

2.14 Land Rates and Levies

There have not been proper rates guidelines formulated by the defunct Municipal Council to direct collections. The current system is archaic and manual which has led to consistent complaints of rate collection without commensurate services. The system‟s main modules are land rates, fees and charges which need to be enhanced to include stamp duty and capital gains tax. Due to lack of automation, the county is unable to effectively and efficiently collect revenue. The county is equally unable to track defaulters or project revenues a critical source of its operating income

2.15 Land Conservation and Preservation

Some of the consequences of past policies and laws have been the systemic deprivation of many Kenyans of access to land and the disruption of indigenous culture and conservation systems in the use of land. In particular, common resource areas including farming, grazing, fish landing sites, watering points, passage routes and cattle dips have increasingly been encroached upon.

[4]system included payment in the form of offerings of beer, livestock or cereals given to the elders

3.0 POLICY FRAMEWORK

3.1 Introduction

In line with its vision to ensure an effective and efficient system of exploiting land as a resource for the benefit, the County government of Mombasa seeks to transform the land tenure systems management and use in the County. It seeks to redefine the challenges and tapping the opportunity presented thereof. In this regard, the county government proposes immediate, holistic and effective policy to address the land question within Mombasa County taking into consideration the historical and peculiar issues as well as contemporary context to address the economic, social, cultural, governance and political ramifications of the land issue as follows.

3. 2 Land Management and Administration

3.2.1 Overview

The framework for effective administration and management of land in Mombasa County encompasses numerous components. In line with statutory provisions, the principles and values outlined therein the County Government is expected to promote equitable access, sustainable land use and preservation of culture in utilization of land. In particular, women, children, minority groups and person with disability shall be recognized in matters pertaining to land.

Policy Statement: The County Government will re-organise and strengthen its land Administration and management functions including juridical, regulatory, fiscal, and information management by raising the capacity of agencies responsible for Land planning, Surveying and mapping, land registration and land valuation. The Mombasa County Land Policy will address the following important issues:

(a) Identification of Land under County Government;
(b) Promotion of Land Administration and Management;
(c) Lack of land dispute resolution mechanism;
(d) County Revenue Collection;

Policy direction: The County Government Shall;

(a) Facilitate the disposition or the transfer of rights in land from one party to another through sale, lease, loan, gift and inheritance.
(b) Undertake regulation of land and property development by prioritizing on the use and conservation of the land;
(c) Develop a mechanism for revenue collection from sales, leasing, licensing and taxation of the land;
(d) Develop a formal method of identification of public utility and institutional land

(e) Progressively undertake to build the capacity of personnel and strengthen land governance.

3.2.2 Land preparation–Surveying and registration of land for development

Policy Statement: The County Government recognises that the registration of all interests on land is the basis for proper land administration and management. Cognizant of past failures in land surveying and registration, the County shall work closely with all actors to create systems that will enhance surveying and subsequent registration.

Policy direction: The County Government Shall;

(a) Develop the capacity of the personnel in the county land departments
(b) Identify and survey all public and community land with assistance from the NLC.
(c) Undertake surveying and registration of all land set aside for public utilities for purposes of fencing them and protecting them against encroachment
(d) Avail resources and equipment for undertaking survey and mapping within its jurisdiction.
(e) Establish a geo-referencing mechanism for all land transactions to new owners.
(f) Provide sanctions against those in contravention of regulations
(g) In conjunction with the National Land Commission, formulate rules and regulations to share stamp duty of the land transfer.

3.2.3 Land Alienation and or allocation

Policy Statement: Wherever the National Land Commission ought to alienate and or allocate public land on behalf of either the National or County Government in Mombasa County, this must be in accordance with the county government plan. This will ensure monitoring and evaluation of illegal and or un-procedural allocation which in turn results in illegal and or poor land use. It will be easy for revocation of such alienation and or allocation.

Policy direction: The County Government Shall;

Within one (1) year of the adoption of this policy, consult the National Land Commission to formulate rules and regulations and to ensure that there is a harmonized system of alienation and or allocation of public land in Mombasa County.

3.2.4 Land records and information systems

Policy Statement The County government‟s records are not automated and are still manual. This has led to lack of security, poor storage and accessibility of land data. There are inadequate qualified personnel, equipment and budget allocations for the improvements of the departments.

Policy direction: The County Government Shall;

i) Establish land-based addresses for urban areas.
ii) Issue guidelines for regular updating of urban land information systems.
iii) Partner with the National government to institute reforms aimed at digitizing records to improve efficiency.
iv) Contract a competent and experienced private company to carry out actual digitization of the County Land Registry

3.3 Land Use and Planning

3.3.1 Overview

Mombasa County Government has an outdated town planning in relation to the population growth. The County has not undergone a comprehensive City planning for a long time. When this is coupled with land tenure issues, absentee land lords and population pressure a lot of unplanned settlements cropped up. Numbering of plots is by sections and blocks covering different areas. In order to realize the objectives of integrated development planning, there will be need for legal and institutional mechanisms to foster and guide the progressive realization of a society led by planning. Poor urban design decisions result in a poor physical environment, which may increase crime, discourage investors and tourists, inhibit local entrepreneurial spirit and affect social cohesion.

3.3.2 Land use

Policy Statement: The Mombasa County Government intends to put in place a spatial framework that addresses citizens‟ concerns, determines land use patterns, preserves land resources and outlines the layout of infrastructure and services. This is critical for the delivery of good quality of life at the right price by setting aside land for the following type of use:

a) Residential/ Housing

The new settlement plan will set aside residential areas in each ward and locate them near certain facilities like markets, clinics, hospitals, schools, cemeteries and provide for a recreational facility that will serve as a forest or botanical garden for the protection of the environment.

Policy direction: The County Government Shall, establish a County settlement Fund (CSF) to manage the new settlement programs.

b) Agriculture

Mombasa County is essentially an urban area. However, it has land with agricultural potential. Producing agricultural crops locally shall help reduce prices for the benefit of the residents.

Policy direction: The County Government Shall;

(a) Identify and define ownership of land with good agricultural potential
(b) Promote Horticulture and set aside areas probably in the mainland north, west and south for the exercise.
(c) Redesign agricultural areas to meet dual purpose of farming as well as afforestation.
(d) Develop wood lots areas in the agricultural areas.
(e) Establish an Agricultural Finance and Technical Support to farmers in the County.

c) Forests

As indicated above Mombasa County Government will adopt a multi-purpose land development plan,

***Policy Direction*:** The County Government Shall:

(a) Develop all cemeteries in each ward, recreational facilities and agricultural land to enhance and provide a green cover (Forest) for the good of the environment.
(b) The County Government will set aside a specific area for the establishment of a forest.

d) Industrial Areas

There has been a trend of haphazard mushrooming of industrial areas. The traditional industrial areas of Shimanzi and Changamwe have been infiltrated by unplanned residential homes. This is also true of the traditional residential areas that have been invaded by small as well as large industries.

Policy direction: The County Government Shall;

(a) Within two (2) years of the adoption of this policy, set aside land, including zoning the current areas for industrialization.
(b) Ensure all industries meet the international environmental impact assessments standards and environmental audits as per NEMA standards and regulations.

e) Recreational Facilities

In modern town and or city planning, recreational facilities are essential for comfort and health of the residents.

Policy direction: The County Government shall designate certain areas in each sub-county, for this purpose. Each residential estate must have such a facility for the use by the residents.

*f) **Public Utilities***

These are mandatory requirements in a social democratic system.

Policy direction: The County Government shall ensure the following utilities are available for the residents:-

i. Markets
ii. Social Halls
iii. Cemeteries and Crematoriums
iv. Waste Garbage Collection sites
v. Toilets
vi. Drainage and Sewers
vii. Gardens and or Parks
viii. Sports Stadiums
ix. Modern Recreational facilities

3.4 Development Control

3.4.1 Overview

Once approved, development plans achieve legal powers to guide all types of development within the planned area. Plans also fulfil both constitutional and statutory provisions regarding various aspects of guiding development by the county governments such as land surveying and mapping, setting boundaries, and housing. Increased rate of urbanization has led to developer overlooking regulatory controls or infringe on environmentally sensitive areas.

Zoning control

Policy Statement: A key component of any physical development is zoning. To avoid the challenges of the past, there must be a clear connection between economic and land use planning.

Policy direction: The County Government Shall;

(a) Regulate the use of land to ensure sustainability through zoning.
(b) Ensure effective enforcement of development control.
(c) Adopt mixed-used zoning standards which tend to bring together jobs and services and thus reduce the need to commute.
(d) Promote a closely mixed pattern of land uses that minimizes road infrastructure requirements.
(e) Initiate a certification of all tenants at will but without granting of formal titles;
(f) Regularize the *wakf* tenure system in cooperation with the NLC

3.4.2 Settlements in hazard prone areas

Policy Statement: Developments occurring along natural drainage channels, contrary to regulatory provisions, continue to plague Mombasa County which has in the recent past suffered from increased flooding.

Policy direction: The County Government Shall;

(a) Restrict any developments from occurring in close proximity to environmentally sensitive areas.
(b) Require that all such development on environmentally sensitive areas are removed

3.4.3 Environmental Assessment and Audit as Land Management Tool

Policy Statement: The control of degradation of land from abuse of inputs and inappropriate land use practices, which is very critical for sustainable land use in the County, will be addressed through appropriate environmental protection tools.

Policy direction: The County Government Shall;

(a) Adopt Environmental Audit and Environmental Impact Assessment as land management and land development tools
(b) Regularly undertake assessment/audit of environmentally sensitive areas

3.4.4 Littoral and air rights

Policy statement: Development rights on a plot depend on the provision of the urban plan. They are necessary as the conversion of land to various uses occurs and vary depending on the plan. These include air rights that involve the right to build at greater density or littoral rights, which is, enjoying access to a water body or waterway.

Policy direction: The County Government Shall;

- Adjust higher-density development in scenic and sensitive landscapes to reduce negative impact on the surrounding natural environment.
- Protect access to water bodies and waterways including beaches and fish landing sites.

3.4.5 Public participation in urban planning

Public participation in planning is a key corner stone of the democratic process. In the past, residents played peripheral roles in matters related to planning their urban or neighbourhood areas. Institutionalizing participation facilitates monitoring and continuity. However, this also implies that participatory approach requires investments in the form of resource allocation, including capacity building among others.

Policy Statement: Citizen Participation platforms are a critical requirement of the CoK 2010, which should be provided and facilitated by either policy frameworks and/or statutory promulgations

Policy direction: The County Government Shall;

(a) Implement Participatory planning at the county, sub-county and ward levels to facilitate and guide the development of a strategic, integrated development planning framework.
(b) Encourage Citizen Participation formations like neighbourhood associations/forums, regular or occasional Town Hall meetings.

3.5 Urban Renewal and Redevelopment

Capturing the value released from city redevelopment and renewal is a way for capitalizing on existing opportunities to strengthen resources. Urban renewal and regeneration to rejuvenate Mombasa‟s cityscape and to improve the living and environmental conditions of the community in the decayed areas have therefore become all the more important in the process of urban planning and development for the County Government.

Policy Statement: Developers rarely pay for the cost of infrastructure already available in an area. To ensure that developers meet the infrastructural costs, they will be required to either build the infrastructure directly or pay for its costs as part of the development license.

Policy direction: The County Government Shall;

(a) Optimize density by redeveloping vacant, derelict or underused sites
(b) Link developer infrastructure to public systems, such as roads and trunk utility lines.
(c) Introduce “Betterment levies” associated with transport and road construction and improvements projects
(d) Promote private-public development on land surrounding major projects.
(e) Ensure that greenfield development occurs in a compact pattern to minimize the amount of network infrastructure required;

3.6 Special Purpose Areas - Port, SEZ

Policy statement: Special Economic Zones (SEZs) such as export processing zones, ports, and airport are key drivers of development. Many SEZs are strategically located to capture investments and include attractively priced government-owned land, concessionary tax rates, and generous exemptions for foreign investment which promotes employment creation, foreign trade and economic investment.

Policy direction: The County Government Shall;

(a) Identify and hold strategically located land within the county
(b) Integrate spatial planning with public investment in order to substantially increase the value of land.
(c) Promote special land use activities that provide access to employment and community services.

3.7 Smart Growth Planning

Policy statement: To develop urban areas as engines of economic growth, the County government will ensure that there is effective linkage between urban areas and the rural hinterlands, where many people still reside.

Policy direction: The County Government Shall:

(a) Develop an effective strategy for containing and controlling urban sprawl.
(b) Develop guidelines that will help to spread new and potential public and private sector investments across the county

3.8 Infrastructure and Services

3.8.1 Overview

Infrastructure improves quality of life and induces economic growth. But inadequate and underperforming infrastructure reduces economic output and badly affects living conditions. The provision of a basic infrastructure for water, sanitation and waste management is fundamental to a thriving city.

Policy statement: The County government will, from its own resources, and in partnership with other public and private entities, develop guidelines for infrastructure investments and user-pay principles for the purpose of developing new, and maintaining existing infrastructure

3.8.2 Land for urban housing

Policy statement: Lack of affordable land forces the poor to live in informal settlements close to jobs and transport, even if this means being exposed to tenure insecurity and other hazards. Policies that anticipate population growth should ensure that there is sufficient land zoned for affordable housing;

Policy direction: The County Government Shall;

(a) Purchase land where growth is anticipated and hold for future use
(b) Stabilize land markets, and discourage monopolistic or "price inflationary" behaviour.

3.8.3 Urban housing infrastructure

Policy statement: Housing development normally requires requisite infrastructure and services. This has not been available in many parts of Mombasa over the last few decades.
Policy direction: The County Government Shall;

(a) Ensure that land earmarked for infrastructure is identified, protected, and continuously monitored to deter encroachment;
(b) Reserve land for trunk, social and public infrastructure to meet future demands;
(c) Ensure a sequential land release so that infrastructure can be provided efficiently, and,
(d) Encourage partnerships with developers who can contribute to infrastructure provision.

3.8.4 Informal settlements

Policy statement: Informal settlements make many cities competitive by providing cheap and flexible labour. They create opportunities for poorer households that the formal economy cannot offer. Informal settlements are "home" for millions of families who cannot afford buying or renting houses in the formal housing market.

Policy direction: The County Government Shall;

(a) Promote strategies that will incorporate informal settlements in the promotion of social cohesion, service delivery and employment creation.
(b) Engage Microcredit institutions to play a role in upgrading informal settlements by providing loans for home-based economic activities
(c) Promote Security of tenure through full titling and registration to guarantee the tenure for households.
(d) Focus on security of occupancy of renters with regards to regularization of land ownership.
(e) Provide temporary and renewable occupancy permits;
(f) Assign a number and an address to all houses there.
(g) Develop effective site and services schemes
(h) Coordinate the release of land with housing programmes and infrastructure provision to make space for lower income groups.
(i) Discourage holding of lands that have not been released and developed within a time period as specified by the development plan(s).
(j) Facilitate access to employment areas by allowing a mix of commercial and residential uses of the informal sector.
(k) Undertake Mapping of informal settlements to enable integration with wider city plans.
(l) Develop eviction regulations to guide informal settlement re-location.

3.8.5 Land for public open spaces and other community land

Investment in public space contributes to improved health and well-being; it reduces the impact of climate change; encourages people to walk and cycle; increases safety and reduces fear of

crime. It can improve residential neighbourhoods, safeguard property values, be more attractive to tourists and increase retail activity. In the peri-urban areas such spaces facilitate harmonious community coexistence. Additionally, much of the land originally occupied under customary tenure or community tenure has been subjected to adjudication and issue of title is either completed or in progress thus offering protection.

Policy statement: Well designed and managed public spaces are a key asset for a city and have a positive impact on its economy while the conservation and preservation of communal land offer flexibility and permanent guarantee to the use of land.

Policy direction: The County Government Shall;

(a) Register and obtain title for all public utilities within Mombasa County.
(b) Identify and hold in trust all unregistered community land on behalf of the community.
(c) Ensure that all public spaces are well maintained, have adequate amenities and are secure enough for use by the residents.
(d) Create awareness on rural land use planning.

3.8.6 Way leaves

a) Water and sanitation services

Water is purified and pumped to reservoirs before being distributed through networks to consumers. Once water is used, wastewater is typically discharged into a sewerage system and treated before being discharged into a river, lake or the sea, or re-used.

Policy statement: Water plays a vital role in public health, economic growth and environmental sustainability.

Policy direction: The County Government Shall;

(a) Undertake the construction of distribution systems, which require large fixed investments, influences spatial development.
(b) Minimize the costs of capital and operations related to distribution networks typically account for 70 per cent of the overall system costs.
(c) Expand the capacity of public water and sanitation companies as well as utilities to meet rising demands for water and sanitation services
(d) Organize informal providers to ensure efficient and reliable distribution to low-income settlements.

b) Information communications technology

Policy Statement: Information Communication Technology is defining how business transactions are undertaken. A suitable ICT infrastructure is critical in aiding the economic growth of the county.

Policy direction: The County Government shall facilitate the laying of ICT infrastructure across the county along designated way leaves.

3.8.7 Land for transportation infrastructure

Policy Statement*:* Cities with high population densities need sufficient space for circulation, interaction and the laying of infrastructure.

Policy direction: The County Government Shall;

(a) Maximize the capacity of existing infrastructure through proper traffic flow management
(b) Consider the location of facilities when determining new transportation infrastructure areas

3.8.8 Land for Solid waste management

Policy Statement: Ineffective solid waste management practices make a poor impression on investors and tourists, and may result in loss of investments. Past attempts to relocate, construct and operate large scale landfills have not succeeded.

Policy direction: The County Government Shall;

(a) Provide measures such as availing spaces for sorting and recycling close to areas where waste is produced can help to reduce the size of a disposal site.
(b) Work with all stakeholders to set up new dumping sites, relocate existing one and or raise the capacity of existing areas
(c) Develop attractive and motivational guidelines that will enable developers, businesses and landlords to manage solid waste within their premises

3.9 Land-Based Cultural and Heritage Resources

3.9.1 Overview

Communities and individuals residing near cultural and heritage sites are increasingly demanding to exercise their rights to access and use natural resources within their environs, as well as participate in the conservation and management of such resources.

3.9.2 Utilization of monuments and heritage site

Policy statement: Cultural factors and heritage tend to dictate property appreciation and limit aggressive developments from occurring due their historical significance invariably denying local communities a chance to exploit opportunities thereof.

Policy direction: The County Government Shall;

(a) Ensure all land where gazetted monuments and historical buildings stand is not encroached upon.

(b) Engage with all stakeholders to develop mechanisms for determining and sharing of benefits emanating from land based natural resources by communities and individuals;
(c) Ensure the management and conservation of land-based natural resources involves all stakeholders.

3.9.3 Sacred land

Policy Statement: Indigenous groups have maintained a strong cultural bond to their lands, without which they would not exist as cultural entities and their lives would be affected in a number of ways. For instance, the Mijikenda people recognise and honour different rights in land and boundaries between individual groups.

Policy direction: The County Government Shall;

(a) Ensure that all sacred land is surveyed and registered
(b) Facilitate the continued preservation of sacred sites as a means of promoting environmental well-being of the County

3.10 Land backlogs

3.10.1 Overview

A number of land issues remain to be resolved thereby creating a backlog. Notably land succession, historical injustices and absentee landlords as well as alienation by non-citizens cause most of the landlessness within the County.

3.10.2 Succession

Policy Statement: Working closely with the NLC, the County government will develop guidelines on how to address issue of absentee landlords can be tackled within the limits set by the Constitution and relevant laws and national policies

Policy direction: The County Government Shall;

(a) Sensitize and educate on the need for Succession;
(b) Facilitate circulation of all Kenya Gazette notices pertaining to Succession cases at the lowest local administrative level and at market centres

3.10.3 Historic injustices

Policy Statement: Inequalities in land distribution is a complex problem, and the one in the Mombasa is unique given that the injustices can be traced to the pre-colonial period.

Policy direction: The County Government Shall;

(a) Work closely with NLC to develop guidelines for addressing historical injustices pertaining to land ownership and tenure
(b) Ensure that all stakeholders are involved in forums for addressing historical injustices
(c) Enact a legislation through an all-inclusive process and in tandem with the Constitution, existing laws and national policies- to tackle the most pertinent injustices

3.10.4 Absentee land holders / land held by non-citizen

Land in Mombasa County owned by absentee landlords has been blamed for a myriad of socio-economic issues including security. The continued ownership of land by non-citizens or companies has yet to conform to constitutional requirements.

Policy Statement: the challenge of absentee land owners as well as non-citizens complicates the Status of Land in the Coast.

Policy direction: The County Government shall

a) In conjunction with the NLC, establish a legal framework and procedures for transferring unutilised land and land belonging to absentee land owners to squatters and people living in informal settlements;
b) Ensure that the grant to land to non-citizens does not unduly deny access to land by its people.
c) Ensure grants to non-citizens or companies takes into consideration public policy consideration on such matters as security

3.10.5 Gender and marginalization

Mainstreaming gender in spatial planning has positive side effects. In many towns and cities, women are significant income earners yet their voices are seldom heard during public decision making processes. Spatial and economic development initiatives from women‟s perspectives have led to improvements for entire households.

Policy Statement: The County Government shall promote equitable access, sustainable land use and preservation of culture in utilization of land. In particular, women, children, minority groups and person with disability shall be recognized in matters pertaining to land ownership, use and management.

Policy direction: The County Government Shall;

a) Protect and promote the land rights of women, children and other vulnerable groups
b) Promote equity and fairness on all matters land

3.10.6 Corruption

Corruption in land transactions continues to impact negatively the distribution and management of land in Mombasa County. Furthermore, public perception on corruption in the land sector is fueled by lack of limited information regarding land and land transactions.

Policy Statement: The county government shall promote anti-corruption measures in land transactions and enhance the public‟s knowledge regarding land and land transaction.

Policy direction: The County Government Shall;

(a) Ensure proper linkages between the County Government and Land Registries
(b) In conjunction with the Ethics and Anti-Corruption Commission (EACC), develop development and implementation of public education and awareness creation programmes.
(c) Develop Community mechanisms of reporting and information sharing.

3.11 Land Compensation

Policy statement: Compulsory acquisition avails to the state the power to extinguish or acquire any title or other interest in land for a public purpose, subject to prompt payment of compensation, and as provided for in the Constitution and relevant laws. This power is exercised by the National Land Commission on behalf of the National and County Governments.

Policy direction: The County Government Shall;

(a) Work with the NLC to ensure that appropriate mechanism for land acquisition and compensation are formulated and followed and that they are within the confines of the Constitution and adheres to the relevant national and county laws.
(b) Ensure communities shall not be forcibly removed from their lands without the free, prior and informed consent of the community concerned and after agreement on just and fair compensation and, where possible, with the option of return.
(c) Through the NLC, in cases where evictions are deemed lawful and where the person or persons evicted are rendered homeless, ensure that such persons are provided with appropriate resettlement in accordance with the law.
(d) Make provision for compensation to be paid to occupants in good faith of land acquired under clause article 40 (4) of the Constitution, who may not hold title to the land.
(e) Provide safeguards to ensure that development control does not amount to compulsory acquisition without compensation.

3.11.1 Settlement Trust Funds (STF)

Policy statement: There is no proper legal or policy framework at the County for the utilization of this fund. It has not been used for its intended purpose. Squatters still remain unsettled despite the fact that several settlements schemes have been registered.

Policy direction: The County Government Shall;

(a) Carry out an audit of areas settled under SFT within the County
(b) Enact an appropriate guidelines to guide utilization of STF

3.12 Dispute Resolution

Land conflicts often result in extensive negative effects on economic, social, spatial and ecological development. This is especially true in Mombasa County, where land arbitration institutions are weak, opportunities for economic gain from engaging in illegal activities are widespread and many poor people lack access to land. Land conflicts can have disastrous effects on individuals as well as on groups and even the entire nation.

Policy Statement: Many conflicts that are perceived to be clashes between the owners and squatters are actually conflicts over land acquisition and adjudication.

Policy direction: The County Government Shall;

(a) Address land disputes by resolving conflicts concerning the ownership and the use of land through courts.
(b) Refer all land disputes to the County Land Management Board for resolution of disputes between land owners and Tenants at will.
(c) Provide facilitation for the full operationalisation of a branch of the Environment and Land court within the County

3.13. Land Revenue Collection

Local revenue collection is preserved for county governments to generate income. This will only be possible if proper mechanisms for tracking property owned by all the developers are established.

Policy statement: A properly designed system will assist Mombasa County Government in maximizing on revenue collection.

Policy direction: The County Government Shall;

(a) Establish and empower an agency for revenue collection that will emulate KRA‟s operations within the County government.
(b) Set targets for the Revenue Collection Agency and require it to come up with a strategy of broadening revenue base within the County
(c) Review all land rates and valued accordingly irrespective of the areas.
(d) Establish a fair repossession and reallocation mechanisms for land whose owners are serial defaulters of rates including absentee landlords land.
(e) Ensure that *Wakf* property shall not be exempted from paying rates unless it is set aside for public use. The *Wakf* commission must submit an inventory of all their properties to the county government for this exercise.
(f) Valuation for rating will be decided in terms of unimproved site value.
(g) New Revenue collection system will be installed – Automatic valuation roll updated
(h) Adopt cadastre as a key tool for tax collection.

4.0 INSTITUTIONAL FRAMEWORK

4.1 Overview

A sound institutional framework is indispensable for the implementation of plans as it creates the conditions for all actors to work with certainty. Many cities that have had major successes in planning also have progressive legislation that ensures that plans are legally binding documents and include sanctions for non-compliance by residents and developers.

4.2 County Government

The county government has established the department of Land, Planning and Housing to deal with all matters concerning Land administration and Housing. Led by County Executive Member and Chief Officer, the department has three directories each of which is led by a director. The two directorates that are directly engaged in land administration are land and planning directorates. Their mandates involve planning, development control, and land valuation for various purposes, rating, valuation roll, dispute resolution, and facilitation of squatter settlements, creation and maintenance of County spatial data base among other tasks.

Policy direction: The County Government Shall;

a) Develop relevant county legislation and regulations
b) Coordinate all development control decision making

4.3. National Land Commission - County Land Management Board

The Constitution of Kenya under Article 67 and the National Land Commission Act, 2012 Section 9(a) empowers the National Land Commission to manage public land on behalf of the National and County Governments, allocation of public land, change and extension of user, subdivision of public land, renewal of leases and performance of any other functions as assigned by the commission or any other written law. Besides, the NLC and County government are expected to establish County Land Management Boards to act as land management agents on behalf of the County Government.

Policy direction: The County Government Shall;

a) In partnership with the NLC establish the County Land Management Board
b) Develop capacity for management and protection of public land.
c) Conduct public education on importance and use of public land.
d) Assess the state of landlessness, fraudulent and multiple allocation of public land and develop regulations.
e) Facilitate renewal and extension of leases.

4.4. The National Government

The National Government, through the line Ministry in-charge of Land, will revise consolidate and rationalize the registration of title to land to give effect to the principles and objects of devolved government in land registration and for connected purposes as stipulated in the Land Registration Act, 2012.

Policy direction: The County Government Shall;

a) Partner with the National government to digitize records to improve efficiency.
b) In association with the National Government (Ministry of Land) institute reforms in land registration.

4.5. Citizen Fora

Building clear mechanisms for deciding on public investments and allowing residents‟ participation have resulted in greater compliance and better understanding of the significance of charges. Well-structured partnerships with people, the private sector and other levels of government enable cities to mobilize support and get the resources needed to implement local plans and deliver municipal services.

Policy direction: The County Government Shall;

a) Leverage the resources of external actors to not only access funds, but also to technology and managerial skills that are needed for planning and implementation.
b) Foster meaningful partnerships with community-based organizations to mobilize residents‟ energy and resources towards planning and implementation.
c) Engage residents to minimize chances of planning mistakes and ensure effectiveness.

5.0 MONITORING AND EVALUATION

5.1 Overview

Monitoring progress and documenting changes in conditions shall be important aspects for establishing and tracking the achievement of goals and for keeping constituents and partners engaged. This will be achieved through an evaluation of the relevance of the policy and policy actions and performance measurement focusing on efficiency of delivery. A set of indicators helps to determine if conditions are actually improving against a baseline, and

5.2 Monitoring

Policy statement: monitoring brings about a significant opportunity to create and strengthen commitment to a plan if and enhance transparency.

Policy direction: The County Government Shall;

(a) Develop participatory monitoring mechanisms for checking on implementation of this policy.
(b) Generate baseline data to facilitate monitoring.

5.3 Evaluation

Policy Statement: evaluation informs decision makers on the impact of policies and resources required.

Policy direction: The County Government shall link both planning and budgeting functions to allow for effective decision making.

6.0 POLICY IMPLEMENTATION

6.1 Overview

Implementation of policies and plans require monitoring capacity, credible institutions and low levels of corruption and impunity. More often than not, lack of continuity because of political/electoral cycles, and leadership that does not take into consideration the long-term negative consequences of overruling and/or discontinuing the implementation of policies and plans poses major hurdles to development. There is a need to adapt the plan implementation process to suit the local context.

Policy statement: The Mombasa County Government will provide a platform for the effective implementation, monitoring and evaluation of the Policy. This will ensure that the vision, mission and objectives of this policy are realised through a transparency and accountable process thus giving the residents the guarantee that the goals and targets established herein will be attained.

Policy direction: The County Government Shall;

(a) Give annual reports in the county assembly on the progress of the policy implementation process.
(b) Involve the public on the implementation and monitoring of the policy to ensure transparency and accountability of service delivery.
(c) Through the County Assembly allocate resources for the sustainable implementation of the policy.
(d) Enact a County Land Management Act that shall establish the Mombasa county land management board with powers to act on its mandate.

6.2 Resource Mobilisation

Policy Statement: The lack of resources may result in chaotic spatial patterns. Without adequate financial means, local governments are unable to undertake the capital improvements needed to keep up with urban growth, let alone guide urban development. The challenge to deliver urban services for all while keeping taxes at a level that does not push out individuals and businesses highlights the importance to reach out to a variety of stakeholders, investors and partners.

Policy direction: The County Government Shall;

(a) Develop a capital investment plan providing a detailed understanding of anticipated investments into capital assets such as bridges, roads, and water and wastewater systems.

(b) Enhance accountability and transparency as cornerstone of good governance.

6.3 Implementation Matrix

Strategies	Objectives	Responsibility	Time frame
Land Governance systems			
Proper Management and Administration	1. To Regularize land tenures to conform with existing regime 2. To Enhance capacity of land personnel in surveying, adjudication 1. To Improve capacity of the physical planning department	County Government NLC	Immediate
Regulation and service delivery	3. To develop rules and regulations to guide public land alienation and allocation 4. To develop a land service charter 5. To establish a geo-referencing mechanism for all land transactions	County Government NLC	Short Term
Protection of public land and community land	6. To Survey all public and community land 7. To ensure all public and unregistered community land is registered 8. To digitize all land records and leases	County Government NLC	Immediate
Land Use Planning and Management Issues			
Land Use	9. To develop a spatial	County Government,	Medium Term

	framework showing the different land uses 10. To Digitize urban development plans 11. To Ensure coordinated land use activities	Consultant Land use Planners, Developers, Residents/community	
Zoning Control	12. To develop and implement zoning regulations	County Government, Consultant Land use Planners, Developers, Residents/community	Short Term
Conservation of ecologically sensitive areas	13. To reduce impact of developments on the environment	County Government NLC Community	Immediate
Development of land use tools	14. To adopt EIA and EA tools	County Government NLC NEMA	Immediate
Development rights	15. To enhance greater respect for rights to access waterways and	County Government	Medium term
Citizen Participation	16. To sensitize the community on existing land laws and transactions 17. To establish platform for citizen participation in legislation making	County Government, Civil Society (NGOs, CBOs) Residents‟ associations, Media	Immediate
Innovation and redevelopment	18. To put in place mechanisms for urban regeneration and growth 19. To facilitate local economic development	County Government, KPA, KAA, EPZA, KEPSA, KHA Civil Society (NGOs, CBOs) Residents‟ associations, Media	Immediate

Infrastructure and Services			
Improved human settlements	20. To facilitate land for housing and housing infrastructure 21. To undertake Informal settlement upgrading 22. To avail open spaces for improving quality of life 23. To avail way leaves for critical infrastructure 24. To effectively manage transport and SWM facilities	County Government, Consultant Land use Planners, Developers, Residents/community	Long term
Special interventions			
Resource protection and benefit sharing	25. To ensure preservation of communal land 26. To establish mechanism for communal resource benefit sharing	County Government, Residents/community	Short term
Transparency and Accountability	27. To ensure compliance with legal provisions in land transactions 28. To facilitate awareness creation among the general public 29. To establish an information feedback mechanism	County Government, EACC, NLC, National Government, Civil Society, Community	Immediate
Redistributive justice	30. Address historical injustices 31. Reduce new land disputes	County Government, EACC, NLC, National Government, Civil Society, Community	Immediate
Monitoring and Evaluation	32. To establish mechanism for continuous monitoring	County Government, Residents/community	Immediate
Inclusivity and Poverty	33. To mainstream gender and	County Government,	Immediate

reduction	youth in land issues	National Government, Civil Society, Community	
Land Revenue			
Land ownership and value	34. Provide clear guidelines on land values within the county 35. Ensure transparency in land transactions 36. Proper management of land records 37. Digitization of land records and leases	County Government NLC	Short Term

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